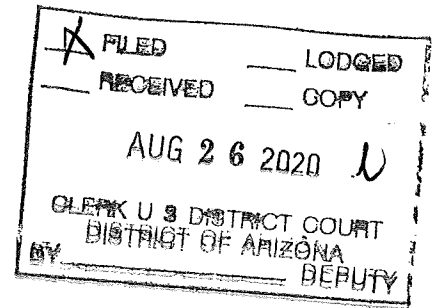


1 Robert Chagolla and Jackie Chagolla  
2 408 E. Loma Vista Drive  
3 Tempe, AZ 85282  
4 480-967-2333  
5 *Plaintiffs Pro Se*



6 **UNITED STATES DISTRICT COURT**  
7 **IN AND FOR THE DISTRICT OF ARIZONA**

8 **ROBERT CHAGOLLA, JACKIE**  
9 **CHAGOLLA,**

10 **Plaintiffs,**

11 **v.**

12 **DETECTIVE BRYAN CLUFF**  
13 **ACTING UNDER COLOR OF LAW**  
14 **FOR THE MARICOPA COUNTY**  
15 **SHERIFF'S OFFICE, LT. TODD**  
16 **BATES ACTING UNDER COLOR OF**  
17 **LAW FOR THE MARICOPA COUNTY**  
18 **SHERIFF'S OFFICE, SHERIFF PAUL**  
19 **PENZONE AS AN EMPLOYEE OF**  
20 **THE MARICOPA COUNTY**  
21 **SHERIFF'S OFFICE, THE MARICOPA**  
22 **COUNTY SHERIFF'S OFFICE,**  
23 **MARICOPA COUNTY**  
24 **AND ANY AND ALL OTHER**  
25 **MARICOPA COUNTY OR OTHER**  
26 **ACTORS DISCLOSED BY**  
27 **DISCOVERY,**

28 **Defendants.**

Case No: CV-20-00079-PHX-MTL

**RE: AMENDED COMPLAINT FOR DAMAGES**

1. **GENERAL NEGLIGENCE**
2. **ETHICS IN GOVERNMENT**
3. **PUBLIC ENTITY NEGLIGENCE**
4. **EQUAL ACCESS TO JUSTICE**
5. **NEGLIGENCE WITH REGARD**
6. **TO SYSTEMIC RACISM**
7. **DEPRIVATION OF FEDERAL**
8. **CIVIL RIGHTS (TITLE VII OF**
9. **THE CIVIL RIGHTS ACT OF**
10. **1964)**

(Assigned to the Hon. Michael T. Liburdi)

**I. INTRODUCTION**

1. The notice of claim was filed timely. The Court requested this amended complaint. The Plaintiffs (Robert and Jackie Chagolla) come before the Court because until January 18, 2018, the Plaintiffs were unclear as to the level of participation of Defendants Bryan Cluff, Todd Bates, Sheriff Paul

- 1 Penzone, the Maricopa County Sheriff's Office, Maricopa County and  
2 any and all other Maricopa County or other actors disclosed by discovery.
- 3 2. Plaintiffs Robert Chagolla and Jackie Chagolla, bring this action under ,  
4 the Constitutional Right to Due Process in retaining employment while  
5 moving through the Court System due to Hispanic Heritage, a violation  
6 of Title VII of the Civil Rights Act, 1964, and Title 42 US Code Section  
7 1983 Rights to Due Process against the Maricopa County Sheriff's Office,  
8 Maricopa County, Sheriff Paul Penzone, Bryan Cluff, Todd Bates, and  
9 (Clarisse McCormick see CV20-01162-PHX-SMB RE: Title 42 US Code  
10 Section 1983 Rights to Due Process by Committing Abusive Discovery  
11 as Fraud on the Court) for their failure to perform mandatory duties and/or  
12 for the unconstitutional and/or negligent acts and/or omissions of their  
13 officers, officials, agents and/or employees that resulted in the reversal of  
14 a previous decision to reinstate employment and a Maricopa County  
15 Superior Court Minute Entry that is based on the falsified DR0033831.
- 16 3. This tragic series of events was initiated in February of 2001, when the  
17 previous IA dated December 2000, was destroyed as well as all contents  
18 of Robert Chagolla's employee file. After the February 2001 IA, the  
19 criminal report was falsified as evidenced by the IA interviews based on  
20 the original criminal report.
- 21 4. The Maricopa County Sheriff's Office has in their possession two  
22 affidavits from Robert Chagolla's only two brothers, that state neither  
23 ever worked as a firefighter, nor did they volunteer as a firefighter or work  
24 or volunteer in a position in the medical field.
- 25 5. The situation was further exacerbated when Clarisse McCormick, a sworn  
26 officer of the court became a party to these matters and violated her role  
27 as a minister of justice in the "*High-Profile Case* [emphasis added], of  
28 Maricopa County Sheriff's Detective (Robert Chagolla) and colluded

1 with the Maricopa County Sheriff's Office, Bryan Cluff and Todd Bates  
2 as a representative of Maricopa County in this matter.

3 6. Detective Robert Chagolla's fate was sealed when the Maricopa County  
4 Sheriff's Office failed to release and subsequently destroyed an audio tape  
5 and a video with audio tape that had been requested by both plaintiffs and  
6 multiple attorneys since the onset of this matter and Clarisse  
7 McCormick's omission of the content of the audios of both the tape  
8 cassette and the audio to the video that per Bryan Cluff she requested all  
9 copies of including the masters.

10 **7. During the administrative hearing it was found the Maricopa County**  
11 **Sheriff's Office falsified an affidavit; to win the hearing.**

12 8. The moment documents are requested the Maricopa County Sheriff's  
13 Office had a duty to follow the law and not intentionally destroy those  
14 records.

15 9. Clarisse McCormick's acts were in collusion with the Maricopa County  
16 Sheriff's Office, Bryan Cluff and Todd Bates.

17 10. This tragedy and the lack of resolution are the by-product of the abuse of  
18 authority and systemic racism of the Maricopa County Sheriff's Office,  
19 Paul Penzone's failure to act on the criminal/civil actions of his own  
20 employees as evidenced by the deposition of Bryan Cluff and Todd Bates,  
21 the IA interviews of Detective Robert Chagolla, subsequent interviews  
22 with Robert Chagolla, Jackie Chagolla and the IA interview of the  
23 detective who actually kicked the subject, in addition to the other  
24 criminal/civil violations that occurred in this matter.

25 11. There is not a statute of limitation on falsification of departmental reports  
26 and/or fraud upon the Court.

27 12. Detective Robert Chagolla's fate was both foreseeable and preventable  
28 had the law enforcement agencies, officials and/or officers and county

1 attorney involved simply followed the laws, regulations and/or  
2 procedures which they swore to uphold.

3  
4 **II. PARTIES**

5 13. Plaintiff: Robert Chagolla and Jackie Chagolla

6 14. Defendants: Maricopa County Sheriff's Office, Sheriff Paul Penzone  
7 employee of the Maricopa County Sheriff's Office, Detective Bryan  
8 Cluff acting under the color of law, Lt. Todd Bates of the Maricopa  
9 County Sheriff's Office acting under the color of law, Maricopa  
10 County and any and all other Maricopa County or other Actors  
11 disclosed by discovery.

12 15. Agency and Concert of Actions: At all times herein mentioned,  
13 Defendant, and each of them, hereinabove, were the agents, servants,  
14 employees, partners, aiders and abettors, co-conspirators, and/or  
15 joint venturers of each of the other Defendants named herein and  
16 were at all times operating and acting within the purpose and scope  
17 of said agency, service, employment, partnership, enterprise,  
18 conspiracy, and/or joint venture, and each Defendant has ratified  
19 and approved the acts of each of the remaining Defendants. Each of  
20 the Defendants aided and abetted, encouraged, and rendered  
21 substantial assistance to the other Defendants in breaching their  
22 obligations to Plaintiffs, as alleged herein. In taking action to aid and  
23 abet and substantially assist the commission of these wrongful acts,  
24 failing to hold accountable each other for these wrongful acts and any  
25 other wrongdoings complained of, as alleged herein, each of the  
26 Defendants acted with an awareness of his/her/its primary  
27 wrongdoing and realized that his/her/its conduct would substantially  
28

1 assist the accomplishment of the wrongful conduct, wrongful goals,  
2 and wrongdoing.

3  
4  
5 **III. JURISDICTION AND VENUE**

6 **16. This Court has jurisdiction to hear cases authorized by the United**  
7 **States Constitution or Federal Statutes.**

8 **17. Multiple Constitutional Freedoms were deprived due to the**  
9 **intentional falsification of DR: 0033831, fraud upon the court and the**  
10 **intentional false testimony given on January 18, 2018, leads a trail to**  
11 **the truth. All claims in this matter arise from a common nucleus of**  
12 **operative facts that are so intertwined that they cannot be reasonably**  
13 **separated.**

14 **18. Venue is appropriate in the court pursuant to the Federal Code due**  
15 **to all parties residing in this judicial district, the alleged actions**  
16 **occurred within this district, and all of the wrongful acts and/or**  
17 **omissions complained of herein occurred in this judicial district.**

18 **IV. GENERAL ALLEGATIONS OF FACT**

19 **A. The Falsification of DR0033831 and destruction of first IA in 2000.**

20  
21 19. The plaintiff hereby incorporates the preceding paragraphs as if fully  
22 set forth.

23 20. This conspiracy of racism/collusion/deceit/unaccountability has lasted  
24 for over 19 years.

25 21. In December 2000, Rich Rosky told Detective Robert Chagolla that the  
26 IA determined that he needed additional training regarding this same  
27 matter.

28 22. The content of Detective Robert Chagolla's employee file was  
destroyed in 2001; before his termination to include the above IA report

1                   that had been placed in his file.

2                   **23.** The falsification of the criminal report DR: 0033831, dated December 8,  
3                   2000, but altered between February 9, 2001 and May 29, 2001 violated  
4                   the Plaintiffs Constitutional Rights to due process and became more about  
5                   terminating him based on the color of his skin and his Hispanic origin  
6                   rather than true facts.

7                   **24.** Robert Chagolla was fired at his home in front of his wife and six of his  
8                   seven children.

9                   **25.** Robert Chagolla and Jackie Chagolla the Plaintiffs submit this  
10                  complaint citing Constitutional violations of racism, Constitutional  
11                  violations of due process citing that the Defendants acted intentionally  
12                  to deprive Robert Chagolla of his Constitutional Right to Due Process  
13                  in retaining his employment while moving through the Court System  
14                  due to his race and therefore, made Robert Chagolla  
15                  unemployed/underemployed causing grave harm to his wife, Jackie  
16                  Chagolla causing her to work multiple jobs to enable her family to  
17                  survive.

18                  **26.** Paul Penzone, Joe Arpaio, Dave Zebro and David Tennyson failed to  
19                  investigate the falsified criminal report and/or provide results to the  
20                  Plaintiffs.

21                  **27.** The falsification of DR: 0033831 was reported in writing to Rick  
22                  Romley while acting as the Maricopa County Attorney as well as  
23                  allegations of racism in this matter.

24                  **28.** Dave Zebro and David Tennyson told the Plaintiffs to sue.

25                  **29.** In the parallel case of Jeffrey Manka, no one at the Maricopa County  
26                  Sheriff's Office obtained a copy of Detective Manka's original police  
27                  report or viewed it while in Detective Robert Chagolla's case they  
28                  had to falsify the police report. (Detective Manka retained his

employment on paid status while on administrative leave until his criminal probation sentence expired in that parallel matter).

30. Detective Jeff Manka retired 12/27/2019 from the Maricopa County Sheriff's Office and is paid \$6,680.37 per month from PSPRS.

31. The falsified DR:0033831 and the Maricopa County Superior Court Minute Entry related to it were used against Robert Chagolla and Jackie Chagolla in other court/police related matters and the deposition of Bryan Cluff and Todd Bates were a result of one of those matters.

**B. The Maricopa County Sheriff's Office's History of Systemic Racism and Constitutional Violations to include attempted destruction of evidence.**

32. The Maricopa County Sheriff's Office targeted a Hispanic member of the Maricopa County Board of Supervisors and a Hispanic Maricopa County Superior Court Judge.

33. Several Maricopa County Attorneys were disbarred for their collusion in the above matters to include Andrew Thomas.

34. Both the Hispanic Judge and the Hispanic member of the Board of Supervisors were awarded financial settlements based on these matters.

35. Ortega Melendres v. Maricopa County Sheriff's Office and Arpaio No. 16-16661, D.C. No.2:07-CV-02513-GMS ruling on May 24, 2013, finding was that the Sheriff and Maricopa County Sheriff's Office had an agency wide pattern and practice of using race to target Latinos for investigation in violation of fundamental rights protected by the U.S. Constitution.

36. Federal search warrants were issued when the Federal Government was advised that the Maricopa County Sheriff's Office was going to destroy evidence in an ongoing Federal Court case against the Sheriff's Office.

37. Former Sheriff Joe Arpaio had been notified regarding his non-compliance while Sheriff with the Melendres v Arpaio case Court

orders.

38. Sheriff Paul Penzone has been notified of non-compliance with the Federal Court Orders in the Melendres v Penzone case Court orders.

39. Under Sheriff Paul Penzone's administration a separate lawsuit was settled regarding Constitutional Violations where multiple employees of the Maricopa County Sheriff's Office in collusion lied under oath regarding Constitutional Violations.

40. Upon information and belief those employees retained employment.

41. The Maricopa County Sheriff's Office has had multiple lawsuits filed against them for failing to obey the Freedom of Information Law in Arizona.

**C. Transgressing of Local, State, and/or Federal Law, in addition the Maricopa County Sheriff's Office also Violated Their Own Policies and Procedures**

42. Upon information and belief all parties in this matter receive money from the Federal Government and risk forfeiture of those funds if they do not honor the Federal Constitutional Laws.

43. Upon information and belief, the county received an estimated over \$200,000 in Federal dollars in Robert Chagolla's termination case.

44. The Maricopa County Sheriff's Office selectively enforces policies on employees.

**D. Collusion between the Maricopa County Sheriff's Office, Clarisse McCormick, Bryan Cluff and Todd Bates**

45. The Maricopa County Sheriff's Office, Clarisse McCormick, Bryan Cluff and Todd Bates colluded in the falsification of DR:0033831 and its coverup.

46. The Maricopa County Sheriff's Office, Clarisse McCormick, Bryan Cluff and Todd Bates colluded in the destruction of DR:0033831 audio cassette recording and the audio with video recording of this criminal



1 interview.

2 47. The Maricopa County Sheriff's Office has in its possession a recorded  
3 audio conversation recorded before the above items were destroyed  
4 and after they were already requested by an attorney and a separate  
5 Freedom of Information Request between Robert Chagolla and  
6 Todd Bates with Todd Bates stating the Maricopa County Sheriff's  
7 Office's refusal to release the requested criminal interview audio and  
8 audio video tapes and acknowledging Todd Bates received our  
9 Freedom of Information request.

10 48. Detective Robert Chagolla's Case was a ***HIGH-PROFILE***  
11 Termination Case [emphasis added].

12 49. Plaintiffs allege that due to this being a High-Profile Case multiple  
13 employees of the Maricopa Sheriff's Office had a duty to report the  
14 alleged violations and did nothing due to the systemic racism.

15 **V. CAUSES OF ACTION**

16  
17 **FIRST CAUSE OF ACTION**  
18 **GENERAL NEGLIGENCE ETHICS IN GOVERNMENT**

19 (Against All Defendants by Plaintiffs Robert and Jackie Chagolla)

20  
21 **50. Plaintiffs hereby re-allege and incorporate by reference each and**  
22 **every allegation contained above as fully set forth in detail herein.**

23 **A. Defendants Maricopa County, Maricopa County Sheriff's Office, Paul**  
24 **Penzone, Todd Bates, Bryan Cluff**

25 **51. PLAINTIFFS allege, that at all times relevant herein Maricopa**  
26 **County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates**  
27 **and Bryan Cluff, and each of them, acted negligently, carelessly,**  
28 **recklessly, and/or unlawfully by including but not limited to: (1)**

1 failing to advise all parties that the allegation was a kick, (2) not  
2 investigating this matter when repeatedly brought to their attention,  
3 (3) falsification of DR:0033831 (4) destroying the evidence they had  
4 in their possession (5) omitting evidence (6) covering up the crimes by  
5 not investigating them

6 52. The aforementioned acts and/or omissions by Maricopa County,  
7 Maricopa County Sheriff's Office, Paul Penzone, Todd Bates and  
8 Bryan Cluff are not vested with discretion to contravene federal law  
9 and/or state law, including the Freedom of Information Act.

10 53. PLAINTIFFS allege, that at all times relevant herein, Maricopa  
11 County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates  
12 and Bryan Cluff were aware that falsification of a criminal report  
13 used to target a Hispanic detective was not only wrong but criminal  
14 and a violation of the Constitution and a violation of Civil Rights.

15 54. As a direct and legal result of the wrongful acts and/or omissions of  
16 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
17 Bryan Cluff and Todd Bates, and each of them, the decision of a  
18 Judge and the Court were altered and cannot be corrected unless the  
19 Paul Penzone holds his employees both criminally and civilly  
20 responsible.

21 55. As a direct and legal result of the wrongful acts and/or omissions of  
22 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
23 Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and  
24 Jackie Chagolla continue to experience both a financial and  
25 emotional tsunami, all in an amount to be determined.

26 56. As a further direct and legal result of the wrongful acts and/or  
27 omissions of Maricopa County, Maricopa County Sheriff's Office,  
28 Paul Penzone, Bryan Cluff and Todd Bates, and each of them, Robert

1 Chagolla and Jackie Chagolla continue to experience loss of trust,  
2 solace, finances, time, loss of benefits, loss of wages, all in an amount  
3 to be determined.

4 57. As a direct and legal result of the wrongful acts and/or omissions of  
5 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
6 Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and  
7 Jackie Chagolla experienced bankruptcy, loss of  
8 employment/underemployment, loss of reputation, loss of sleep, loss  
9 of credibility in reporting crimes against children and ourselves, all  
10 in an amount to be determined.

11 B. Defendant Paul Penzone

12 58. PLAINTIFFS allege, that at all times relevant herein Maricopa  
13 County, Maricopa County Sheriff's Office, Paul Penzone, acted  
14 negligently, carelessly, recklessly, and/or unlawfully by including but  
15 not limited to: (1) failing to advise all parties that the allegation was  
16 a kick, (2) not investigating this matter when repeatedly brought to  
17 his attention, (3) failure to investigate falsification of DR:0033831 (4)  
18 upon information and belief destroying any evidence still in MCSO's  
19 possession (6) covering up the crimes by not investigating them.

20 59. The aforementioned acts and/or omissions by Maricopa County,  
21 Maricopa County Sheriff's Office, Paul Penzone, Todd Bates and  
22 Bryan Cluff are not vested with discretion to contravene federal law  
23 and/or state law, including the Freedom of Information Act.

24 60. A meeting with Paul Penzone was requested before filing this lawsuit.

25 61. Paul Penzone was advised of the falsified DR: 0033831.

26 62. Paul Penzone never met with the PLAINTIFFS in this matter.  
27  
28

1                   63. Due to Paul Penzone's failure to hold his own employees accountable  
2                   for their criminal/civil violations of both policy and laws the Plaintiffs  
3                   were left with no choice but to file this complaint.

4                   64. As a direct and legal result of the wrongful acts and/or omissions of  
5                   Paul Penzone; Robert Chagolla and Jackie Chagolla experienced  
6                   continued loss of reputation, underemployment, lack of trust, loss of  
7                   sleep, loss of credibility in reporting crimes against children and  
8                   ourselves, all in an amount to be determined.

9  
10                   **SECOND CAUSE OF ACTION**  
11                   **PUBLIC ENTITY NEGLIGENCE EQUAL ACCESS TO JUSTICE**

12                   (Against All Defendants by Plaintiffs Robert and Jackie Chagolla)

13                   65. PLAINTIFFS hereby re-allege and incorporate by reference each  
14                   and every allegation contained above as if fully set forth in detail  
15                   herein.

16                   A. **Defendants Maricopa County, Maricopa County Sheriff's Office, Paul**  
17                   **Penzone, Todd Bates, Bryan Cluff**

18                   66. PLAINTIFFS allege that at all times relevant herein, Maricopa  
19                   County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates  
20                   and Bryan Cluff, and each of them, were under mandatory duty to  
21                   investigate crimes reported to them as a law enforcement agency yet  
22                   they negligently, carelessly, recklessly, and/or unlawfully by  
23                   including but not limited to: (1) failing to advise all parties that the  
24                   allegation was a kick, (2) not investigating this matter when  
25                   repeatedly brought to their attention, (3) falsification of DR:0033831  
26                   (4) destroying the evidence they had in their possession (5) omitting  
27                   evidence.  
28

1           **67. The aforementioned acts and/or omissions by Maricopa County,**  
2           **Maricopa County Sheriff's Office, Paul Penzone, Todd Bates and**  
3           **Bryan Cluff are not vested with discretion to contravene federal law**  
4           **and/or state law, including the Freedom of Information Act.**

5           **68. PLAINTIFFS allege, that at all times relevant herein, Maricopa**  
6           **County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates**  
7           **and Bryan Cluff were aware that falsification of a criminal report**  
8           **used to target a Hispanic detective was not only wrong but criminal**  
9           **and a violation of the Constitution and a violation of Civil Rights.**

10          **69. As a direct and legal result of the wrongful acts and/or omissions of**  
11          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
12          **Bryan Cluff and Todd Bates, and each of them, the decision of a**  
13          **Judge and the Court were altered and cannot be corrected, .**

14          **70. As a direct and legal result of the wrongful acts and/or omissions of**  
15          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
16          **Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and**  
17          **Jackie Chagolla continue to experience both a financial and**  
18          **emotional tsunami, all in an amount to be determined.**

19          **71. As a further direct and legal result of the wrongful acts and/or**  
20          **omissions of Maricopa County, Maricopa County Sheriff's Office,**  
21          **Paul Penzone, Bryan Cluff and Todd Bates, and each of them, Robert**  
22          **Chagolla and Jackie Chagolla continue to experience loss of trust,**  
23          **solace, finances, time, loss of benefits, loss of wages, all in an amount**  
24          **to be determined.**

25          **72. As a direct and legal result of the wrongful acts and/or omissions of**  
26          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
27          **Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and**  
28          **Jackie Chagolla experienced bankruptcy, loss of**

1 employment/underemployment, loss of reputation, loss of sleep, loss  
2 of credibility in reporting crimes against children and ourselves, all  
3 in an amount to be determined.  
4  
5  
6

7 **B. Defendant Paul Penzone**

8 **73. PLAINTIFFS allege, that at all times relevant herein Maricopa**  
9 **County, Maricopa County Sheriff's Office, Paul Penzone,**  
10 **acted negligently, carelessly, recklessly, and/or unlawfully by**  
11 **including but not limited to: (1) failing to advise all parties that the**  
12 **allegation was a kick, (2) not investigating this matter when**  
13 **repeatedly brought to his attention, (3) failure to investigate**  
14 **falsification of DR:0033831 (4) upon information and belief**  
15 **destroying any evidence still in MCSO's possession (6) covering up**  
16 **the crimes by not investigating them (5) investigating Clarisse**  
17 **McCormick's actions in this matter.**

18 **74. The aforementioned acts and/or omissions by Maricopa County,**  
19 **Maricopa County Sheriff's Office, Paul Penzone, Todd Bates and**  
20 **Bryan Cluff are not vested with discretion to contravene federal law**  
21 **and/or state law, including the Freedom of Information Act.**

22 **75. A meeting with Paul Penzone was requested before filing this lawsuit.**

23 **76. Paul Penzone was advised of the falsified DR: 0033831.**

24 **77. Paul Penzone never met with the PLAINTIFFS in this matter.**

25 **78. Due to Paul Penzone's failure to hold his own employees accountable**  
26 **for their criminal/civil violations of both policy and laws the Plaintiffs**  
27 **were left with no choice but to file this complaint.**  
28

1                   79. As a direct and legal result of the wrongful acts and/or omissions of  
2                   Paul Penzone, Robert Chagolla and Jackie Chagolla experienced  
3                   continued loss of reputation, underemployment, lack of trust, loss of  
4                   sleep, loss of credibility in reporting crimes against children and  
5                   ourselves, all in an amount to be determined.

6  
7  
8  
9                   **THIRD CAUSE OF ACTION**

10                   **NEGLIGENCE WITH REGARD TO SYSTEMIC RACISM**

11  
12                   **(Against All Defendants by Plaintiffs Robert and Jackie Chagolla)**

13  
14                   80. Plaintiffs hereby re-allege and incorporate by reference each and  
15                   every allegation contained above as fully set forth in detail herein.

16                   **A. Defendants Maricopa County, Maricopa County Sheriff's Office, Paul**  
17                   **Penzone, Todd Bates, Bryan Cluff**

18                   81. PLAINTIFFS allege that at all times relevant herein, Maricopa  
19                   County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates  
20                   and Bryan Cluff, and each of them, were under mandatory duty to  
21                   investigate crimes reported to them regardless of the victims ethnicity  
22                   as a law enforcement agency yet they negligently, carelessly,  
23                   recklessly, and/or unlawfully by including but not limited to: (1)  
24                   failing to advise all parties that the allegation was a kick, (2) not  
25                   investigating this matter when repeatedly brought to their attention,  
26                   (3) falsification of DR:0033831 (4) destroying the evidence they had  
27                   in their possession (5) omitting evidence.

1           **82. The aforementioned acts and/or omissions by Maricopa County,**  
2           **Maricopa County Sheriff's Office, Paul Penzone, Todd Bates and**  
3           **Bryan Cluff are not vested with discretion to contravene federal law**  
4           **and/or state law, including the Freedom of Information Act.**

5           **83. PLAINTIFFS allege, that at all times relevant herein, Maricopa**  
6           **County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates**  
7           **and Bryan Cluff were aware that falsification of a criminal report**  
8           **used to target a Hispanic detective was not only wrong but criminal**  
9           **and a violation of the Constitution and a violation of Civil Rights.**

10          **84. As a direct and legal result of the wrongful acts and/or omissions of**  
11          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
12          **Bryan Cluff and Todd Bates, and each of them, the decision of a**  
13          **Judge and the Court were altered and cannot be corrected.**

14          **85. As a direct and legal result of the wrongful acts and/or omissions of**  
15          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
16          **Bryan Cluff and Todd Bates, and each of them, Robert Chagolla with**  
17          **the falsification of the criminal report DR: 0033831, dated December 8,**  
18          **2000, but altered between February 9, 2001 and May 29, 2001 violated**  
19          **the Plaintiffs Constitutional Rights to due process and became more about**  
20          **terminating him based on the color of his skin and his Hispanic origin**  
21          **rather than true facts.**

22          **86. As a direct and legal result of the wrongful acts and/or omissions of**  
23          **Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,**  
24          **Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and**  
25          **Jackie Chagolla continue to experience both a financial and**  
26          **emotional tsunami, all in an amount to be determined.**

27          **87. As a further direct and legal result of the wrongful acts and/or**  
28          **omissions of Maricopa County, Maricopa County Sheriff's Office,**



1 Paul Penzone, Bryan Cluff and Todd Bates, and each of them, Robert  
2 Chagolla and Jackie Chagolla continue to experience loss of trust,  
3 solace, finances, time, loss of benefits, loss of wages, all in an amount  
4 to be determined.

5 88. As a direct and legal result of the wrongful acts and/or omissions of  
6 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
7 Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and  
8 Jackie Chagolla experienced bankruptcy, loss of  
9 employment/underemployment, loss of reputation, loss of sleep, loss  
10 of credibility in reporting crimes against children and ourselves, all  
11 in an amount to be determined.

12 **B. Defendant Paul Penzone**

13 89. PLAINTIFFS allege, that at all times relevant herein Maricopa  
14 County, Maricopa County Sheriff's Office, Paul Penzone, acted  
15 negligently, carelessly, recklessly, and/or unlawfully by including but  
16 not limited to: (1) failing to investigate crimes committed by Bryan  
17 Cluff and Todd Bates (2) not investigating this matter when  
18 repeatedly brought to his attention due to Robert Chagolla's  
19 ethnicity (3) failure to investigate falsification of DR:0033831 due to  
20 Robert Chagolla's ethnicity (4) upon information and belief  
21 destroying any evidence still in MCSO's possession (6) covering up  
22 the crimes by not investigating them.

23 90. Under Sheriff Paul Penzone's administration a lawsuit was settled  
24 regarding Constitutional Violations where multiple employees of the  
25 Maricopa County Sheriff's Office lied under oath regarding those  
26 constitutional violations.

27 91. Paul Penzone was advised of the falsified DR: 0033831.

28 92. Paul Penzone never met with the PLAINTIFFS in this matter.

1 93. Due to Paul Penzone's failure to hold his own employees accountable  
2 for their criminal/civil violations (including racism) of both policy  
3 and laws the Plaintiffs were left with no choice but to file this  
4 complaint.

5 94. As a direct and legal result of the wrongful acts and/or omissions of  
6 Paul Penzone, Robert Chagolla and Jackie Chagolla experienced  
7 continued loss of reputation, underemployment, lack of trust, loss of  
8 sleep, loss of credibility in reporting crimes against children and  
9 ourselves, all in an amount to be determined.

10  
11 **FOURTH CAUSE OF ACTION**

12 **DEPRIVATION OF FEDERAL CIVIL RIGHTS (TITLE VII OF THE CIVIL**  
13 **RIGHTS ACT OF 1964)**

14 (Against All Defendants by Plaintiffs Robert and Jackie Chagolla)  
15

16 95. Plaintiffs hereby re-allege and incorporate by reference each and  
17 every allegation contained above as fully set forth in detail herein.

18 **A. Defendants Maricopa County, Maricopa County Sheriff's**  
19 **Office, Paul Penzone, Todd Bates, Bryan Cluff**

20 96. PLAINTIFFS allege that at all times relevant herein, Maricopa  
21 County, Maricopa County Sheriff's Office, Paul Penzone, Todd Bates  
22 and Bryan Cluff, and each of them, were under mandatory duty to  
23 investigate crimes reported to them as a law enforcement agency yet  
24 they negligently, carelessly, recklessly, and/or unlawfully by  
25 including but not limited to: (1) failing to advise all parties that the  
26 allegation was a kick, (2) not investigating this matter when  
27 repeatedly brought to their attention, (3) falsification of DR:0033831  
28

1 (4) destroying the evidence they had in their possession (5) omitting  
2 evidence (6) colluding in all crimes/civil violations previously listed.

3 97. As a direct and legal result of the wrongful acts and/or omissions of  
4 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
5 Bryan Cluff and Todd Bates, and each of them, the decision of a  
6 Judge and the Court were altered and cannot be corrected.

7 98. As a direct and legal result of the wrongful acts and/or omissions of  
8 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
9 Bryan Cluff and Todd Bates, and each of them, Robert Chagolla with  
10 the falsification of the criminal report DR: 0033831, dated December 8,  
11 2000, but altered between February 9, 2001 and May 29, 2001 violated  
12 the Plaintiffs Constitutional Rights to due process and became more about  
13 terminating him based on the color of his skin and his Hispanic origin  
14 rather than true facts.

15 99. As a direct and legal result of the wrongful acts and/or omissions of  
16 Maricopa County, Maricopa County Sheriff's Office, Paul Penzone,  
17 Bryan Cluff and Todd Bates, and each of them, Robert Chagolla and  
18 Jackie Chagolla continue to experience both a financial and  
19 emotional tsunami, all in an amount to be determined.

20 100. As a further direct and legal result of the wrongful acts and/or  
21 omissions of Maricopa County, Maricopa County Sheriff's Office,  
22 Paul Penzone, Bryan Cluff and Todd Bates, and each of them, Robert  
23 Chagolla and Jackie Chagolla continue to experience loss of trust,  
24 solace, finances, time, loss of benefits, loss of wages, all in an amount  
25 to be determined.  
26  
27  
28

**B. Paul Penzone**

**101. PLAINTIFFS allege that at all times relevant herein, Maricopa County, Maricopa County Sheriff's Office, Paul Penzone, and each of them, were under mandatory duty to investigate crimes reported to them as a law enforcement agency yet they negligently, carelessly, recklessly, and/or unlawfully by including but not limited to: (1) failing to advise all parties that the allegation was a kick, (2) not investigating this matter when repeatedly brought to their attention, (3) falsification of DR:0033831 (4) destroying the evidence they had in their possession (5) omitting evidence.**

**102. A meeting with Paul Penzone was requested before filing this lawsuit.**

**103. Paul Penzone was advised of the falsified DR: 0033831.**

**104. Paul Penzone never met with the PLAINTIFFS in this matter.**

**105. Due to Paul Penzone's failure to hold his own employees accountable for their criminal/civil violations of both policy and laws the Plaintiffs were left with no choice but to file this complaint.**

**106. As a direct and legal result of the wrongful acts and/or omissions of Paul Penzone, Robert Chagolla and Jackie Chagolla experienced continued loss of reputation, underemployment, lack of trust, loss of sleep, loss of credibility in reporting crimes against children and ourselves, all in an amount to be determined.**

WHEREFORE Plaintiff's pray for relief set forth below.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray judgment against Defendants jointly and severally as hereinafter set forth:

1. For lost earnings/capacity (Robert Chagolla) of \$1,269,867.37; jointly and severally;
2. For emotional and Physical Pain and Suffering of \$53,000,000.00; jointly and severally;
3. For Punitive Damages of \$212,000,000.00; jointly and severally;
4. For pre- and post-judgment interest on all damages as allowed by the law; jointly and severally;
5. For such other and further relief as the Court may deem just and proper.

DATED this 26th day of August, 2020



/s/ Jackie Chagolla and Robert Chagolla  
*Plaintiffs Pro Se*

1                   i. Plaintiff: Robert Chagolla and Jackie Chagolla

2                   ii. Defendants: Maricopa County Sheriff's Office, Sheriff Paul  
3                   Penzone employee of the Maricopa County Sheriff's Office,  
4                   Detective Bryan Cluff acting under the color of law, Lt. Todd  
5                   Bates of the Maricopa County Sheriff's Office acting under the  
6                   color of law, Maricopa County and any and all other Maricopa  
7                   County or other Actors disclosed by discovery.  
8

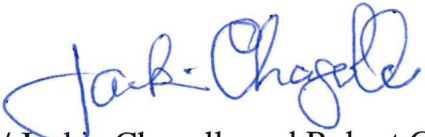

9                   **CERTIFICATE OF SERVICE**

10                  I hereby certify that on \_\_\_\_August 26, 2020, I hand delivered a copy to the Court  
11                  in this matter and mailed a copy c/o:

12                  William G. Montgomery  
13                  Maricopa County Attorney  
14                  Ca-civilmailbox@mcao.maricopa.gov  
15                  MCAO Firm No. 003200  
16                  Attorneys for Maricopa County Defendants  
17                  Christine B. Stutz (Bar No. 019955)  
18                  stutzc@mcao.maricopa.gov  
19                  225 West Madison Street  
20                  Phoenix, Arizona 85003  
21                  Jennifer G. Lockerby (Bar No. 024041)  
22                  lockerbj@mcao.maricopa.gov  
23                  Deputy County Attorneys  
24                  Civil Services Division  
25                  222 N Central Avenue, Suite 1100  
26                  Phoenix, Arizona 85004

27                  For the listed defendants:

28                  DETECTIVE BRYAN CLUFF ACTING UNDER COLOR OF LAW FOR THE  
MARICOPA COUNTY SHERIFF'S OFFICE, LT. TODD BATES ACTING UNDER  
COLOR OF LAW FOR THE MARICOPA COUNTY SHERIFF'S OFFICE, SHERIFF  
PAUL PENZONE AS AN EMPLOYEE OF THE MARICOPA COUNTY SHERIFF'S  
OFFICE, THE MARICOPA COUNTY SHERIFF'S OFFICE, MARICOPA COUNTY  
AND ANY AND ALL OTHER MARICOPA COUNTY OR OTHER ACTORS  
DISCLOSED BY DISCOVERY

29                     
30                  /s/ Jackie Chagolla and Robert Chagolla  
31                  Plaintiffs Pro Se